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**1500 PREAMBLE**

- 1500.1 Miscellaneous Overlay Districts are created to implement the Comprehensive Plan and other public policy goals and objectives.
- 1500.2 The Miscellaneous Overlay Districts include, but are not limited to, those overlay districts that are applied to a specific small area or neighborhood that requires special treatment in controlling land uses.
- 1500.3 The Miscellaneous Overlay Districts may provide development incentives, restrictions, or a combination thereof.

**AUTHORITY:** Unless otherwise noted, the authority for this chapter is the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code §§ 6-641.01 to 6-641.15 (2001))(formerly codified at D.C. Code §§ 5-413 to 5-432 (1994 Repl. & 1999 Supp.)).

**SOURCE:** Final Rulemaking published at 39 DCR 495 (January 24, 1992); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8449-51 (October 20, 2000).

**1501 DUPONT CIRCLE OVERLAY DISTRICT (DC)**

- 1501.1 The Dupont Circle area is a unique resource to the District of Columbia that must be preserved and enhanced. Strong protections are needed to retain its low scale, predominately residential character, independent small retail businesses, human scale streetscapes, and historic character, given the high-density development pressures caused by the proximity of the Central Employment Area and Dupont Circle Metrorail Station.
- 1501.2 The Dupont Circle (DC) Overlay District is applied to the area, the boundaries of which begin at the intersection of 18th Street and Florida Avenue, N.W., and proceed as follows:
- (a) South on 18th Street;
  - (b) East on S Street;
  - (c) South on 15th Street;
  - (d) West on M Street;
  - (e) North on 20th Street;
  - (f) West on N Street;

- (g) Southwest on New Hampshire Avenue;
- (h) West on M Street;
- (i) North on 22nd Street;
- (j) West on N Street (including Squares 35 and 49);
- (k) North on 23rd Street; and
- (l) Northeast on Florida Avenue to the point of beginning.

1501.3 The DC Overlay District includes the following squares: 23, 35, 48, 49, 65, 66, 67, 68, 69, 70, 90, 91, 92, 93, 94, 95, 96, 97, 98, N99, 109, 110, 111, 112, 113, 114, 115, 116, 131, 132, 133, 134, 135, 136, 137, N137, 138, 139, 153, S153, 154, 155, 156, 157, 158, 159, 160, 178, 179, 180, 181, S181, 182, N182, 192, 193, 194, 195, S195, 196, and N196.

1501.4 The purpose of the DC Overlay District is to:

- (a) Require a scale of development consistent with the nature and character of the Dupont Circle area in height and bulk; and to ensure a general compatibility in the scale of new buildings with older, low scale buildings by restricting the maximum permitted height and floor area ratio of new buildings to that of the underlying zone;
- (b) Protect the integrity of “contributing buildings”, as that term is defined by the Historic Landmark and Historic District Protection Act of 1978, effective March 3, 1979 (D.C. Law 2-144, as amended; D.C. Official Code §§ 6-1101 to 6-1115 (2001)(formerly codified at D.C. Code §§ 5-1001 to 5-1015 (1994 and 1999 Supp.))), in the various historic districts within the overlay district; to require compatibility of development with the purposes of D.C. Law 2-144; and to preclude demolitions or partial demolitions that would lead to an increase in height and floor area ratio inappropriate to the area;
- (c) Enhance the residential character of the area by maintaining existing residential uses and controlling the scale, location, and density of commercial and residential development;
- (d) Ensure compatibility of development with the Comprehensive Plan;

- (e) Preserve areas planned as open gardens and backyards and protect the light, air, and privacy that they provide;
- (f) Enhance the streetscape by maintaining the public space in front of buildings as landscaped green spaces and limited curb cuts on Connecticut Avenue; and
- (g) Encourage greater use of public transportation and the free circulation of vehicles through public streets and alleys.

**SOURCE:** Final Rulemaking published at 39 DCR 495 (January 24, 1992), as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8451-53 (October 20, 2000).

## **1502 GENERAL PROVISIONS (DC)**

- 1502.1 The DC Overlay District is mapped in combination with the underlying Commercial, Special Purpose, Mixed Use, and Residence Districts and not instead of the underlying zone districts.
- 1502.2 Except as specifically provided in § 1502.3 and in other provisions of this chapter, all matter-of-right uses, buildings, and structures permitted in accordance with this chapter and the appropriate regulations of the underlying district with which the mapped DC Overlay District is combined, shall be permitted in the combined district.
- 1502.3 Where there is a conflict between this chapter and the underlying zoning, the more restrictive provisions of this title shall govern. Where other chapters provide for additional requirements for planned unit developments, those additional requirements continue to apply.

**SOURCE:** Final Rulemaking published at 39 DCR 495, 497 (January 24, 1992); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8453 (October 20, 2000).

## **1503 PLANNED UNIT DEVELOPMENT (DC)**

- 1503.1 In the DC Overlay District, the matter-of-right height and floor area ratio limits shall serve as the maximum permitted height and floor area ratio for a planned unit development.

1503.2 In the DC Overlay District, the minimum area included within the proposed development shall be one (1) acre in any Residence, Special Purpose, and Mixed Use District, and one-half (½) acre in any other zone district. No waiver shall exceed five percent (5%) of the minimum area requirements. If a waiver of the minimum area is granted, the Zoning Commission must find, after public hearing, that the development is of exceptional merit and is in the best interests of the District of Columbia or the country.

1503.3 In the DC Overlay District, all land within the planned unit development must be contiguous and must neither be separated by a street or alley nor bridge a street or alley.

SOURCE: Final Rulemaking published at 39 DCR 495, 497 (January 24, 1992); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8453 (October 20, 2000).

#### **1504 PLANNED UNIT DEVELOPMENT EVALUATION STANDARDS (DC)**

1504.1 Planned unit development applications for sites within the DC Overlay District shall be evaluated and approved, disapproved, or modified according to the standards in this section. These standards are inclusive, but not exhaustive in nature; it is not expected that an application will exemplify all the standards or achieve all of them in a superior fashion.

1504.2 To the extent an application proposes benefits beyond the requirements of this chapter, the relative value of the public benefits offered, the degree of flexibility or other development incentives requested, and the potential adverse impacts, if any, to be accepted or mitigated, shall all be judged, balanced, and reconciled according to the specific circumstances of each case.

1504.3 The applicant shall have the burden of proof to justify the granting of the application according to these standards.

1504.4 The Zoning Commission shall approve planned unit development applications only if found not inconsistent with the Comprehensive Plan and generally compatible with any other directly applicable city-wide and neighborhood plans.

1504.5 The site plan and design of the project shall provide present and future occupants with a living or working environment and amenities superior to those that can be achieved by applying the other provisions of the Zoning Regulations. Flexibility in the siting, design, type, and location of buildings is encouraged. Superior planning and design include, but are not limited to:

- (a) Provision of open space, which should preserve original gardens and backyard open spaces and provide light, air, and privacy to adjacent buildings;
- (b) Effective and safe vehicular and pedestrian circulation with:
  - (1) Full use of the alleys as a service area for vehicles;
  - (2) Streets unimpeded by service stops; and
  - (3) Sidewalks and public space inviting to pedestrians and free of vehicular parking;
- (c) Superior architectural design in the subject building or complex considered in and of itself and in relationship to the surrounding buildings and environment within six hundred feet (600 ft.) within the DC Overlay District;
- (d) Retention of the entire fabric and scale of historic buildings, to the extent the proposed planned unit development directly affects historic landmarks or contributing historic buildings in the local historic district;
- (e) Retention of housing, the conversion of residential use of nonresidential uses in Special Purpose and Mixed Use Districts, and the provision of low and moderate income housing;
- (f) Superior landscaping;
- (g) Other project amenities that are demonstrated to contribute to the quality of life in the planned unit development or in the surrounding neighborhood; and
- (h) Project amenities shall be located on the site of the planned unit development or in the surrounding neighborhood. In some instances, additional amenities may be located in the adjacent or nearby public space; provided, that the public agency responsible for the space concurs with the proposed amenity and has executed a development agreement with the applicant regarding construction and maintenance of the amenity. For the purpose of this overlay district, "surrounding neighborhood" shall be defined as the subject square or the adjoining square within the DC Overlay District.

**SOURCE:** Final Rulemaking published at 39 DCR 495, 497 (January 24, 1992); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8454 (October 20, 2000).

**1505 LIMITATIONS ON DRIVEWAYS AND CURB CUTS (DC)**

1505.1 No drive-through accessory to any use shall be permitted in the DC Overlay District.

1505.2 Within the area of the DC Overlay District, no driveway providing access from any designated roadway to required parking spaces or loading berths shall be permitted along Connecticut Avenue from N Street, N.W., to Florida Avenue, N.W.

SOURCE: Final Rulemaking published at 39 DCR 495, 499 (January 24, 1992); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8454 (October 20, 2000).

**1506-1510 [RESERVED]****1511 TREE AND SLOPE PROTECTION OVERLAY DISTRICT (TSP)**

1511.1 The Tree and Slope Protection (TSP) Overlay District is established to preserve and enhance the park-like setting of designated neighborhoods adjacent to streams or parks by regulating alteration or disturbance of terrain, destruction of trees, and ground coverage of permitted buildings and other impervious surfaces.

1511.2 The TSP Overlay District shall include a number of individual overlay zone districts that may be established and mapped from time to time, consistent with the general provisions of this chapter.

1511.3 The purposes of the TSP Overlay District is to:

- (a) Preserve the natural topography and mature trees to the maximum extent feasible in a residential neighborhood;
- (b) Prevent significant adverse impact on adjacent open space, parkland, stream beds, or other environmentally sensitive natural areas; and
- (c) Limit permitted ground coverage of new and expanded buildings and other construction, so as to encourage a general compatibility between the siting of new buildings and the existing neighborhood.

1511.4 The TSP Overlay District is designed for residential neighborhoods that are located at the edge of stream beds or public open spaces and that have a significant quantity of steep slopes, stands of mature trees, and undeveloped lots and parcels subject to potential terrain alteration and tree removal. It is not suitable for mapping in neighborhoods where nearly all lots are already developed on a rectangular grid system and the existing mature trees are either yard trees or street trees.

**SOURCE:** Final Rulemaking published at 39 DCR 1900 (March 20, 1992); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8454-55 (October 20, 2000).

## **1512 GENERAL PROVISIONS (TSP)**

1512.1 The TSP Overlay District is mapped in combination with the underlying Residence District and not instead of the underlying zone district.

1512.2 Where there is a conflict between this chapter and the underlying zoning, the more restrictive provisions of this title shall govern.

**SOURCE:** Final Rulemaking published at 39 DCR 1900, 1901 (March 20, 1992); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8455 (October 20, 2000).

## **1513 GROUND COVERAGE RESTRICTIONS (TSP)**

1513.1 The principal building and any accessory building on the lot shall not exceed a total lot occupancy of thirty percent (30%).

1513.2 The maximum impervious surface coverage on a lot shall be fifty percent (50%); provided this subsection shall not:

(a) Preclude enlargement of a principal building in existence as of March 20, 1992; and

(b) Create nonconformity of a structure as regulated by chapter 20 of this title.

**SOURCE:** Final Rulemaking published at 39 DCR 1900, 1901 (March 20, 1992); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8455 (October 20, 2000).

## **1514 TREE REMOVAL LIMITATIONS (TSP)**

1514.1 Construction of a building, accessory building, or an addition to a building or the creation of any impervious surface area shall only be permitted as a matter of right subject to the following tree removal limitations:

(a) The restrictions of this section against removing, cutting down, or fatally damaging trees apply only to trees having a circumference of twelve inches (12 in.) or greater at a height of four and one-half feet (4½ ft.) above ground;



- (b) The prohibitions of this section do not apply to the removal of any dead or unhealthy tree or a tree that creates an unsafe condition. The need for removal of any tree shall be certified by an arborist or other tree care professional;
- (c) No tree that has a circumference of seventy-five inches (75 in.) or more at a height of four and one-half feet (4½ft.) above ground may be removed or cut down;
- (d) No more than three (3) trees that each have a circumference of more than thirty-eight inches (38 in.) at a height of four and one-half feet (4½ft.) above ground may be removed, and none of these may be located within twenty-five feet (25 ft.) of any building restriction line or lot line abutting a public street;
- (e) The total circumference inches of all trees removed or cut down on a lot shall not exceed twenty-five percent (25%) of the total circumference inches of all trees on the lot having a circumference of twelve inches (12 in.) or greater at a height of four and one-half feet (4 ½ ft.) above ground; provided that this restriction does not abrogate the right to remove up to three (3) trees as provided in paragraph (d) of this subsection; and
- (f) Where removal or cutting of trees has occurred that would have been prohibited by this section if an application for a building permit had been contemporaneously filed, no building permit shall be issued for a period of seven (7) years from such removal or cutting unless the Board of Zoning Adjustment grants a special exception pursuant to § 1515.

**SOURCE:** Final Rulemaking published at 39 DCR 1900, 1901 (March 20, 1992); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8456 (October 20, 2000).

## **1515 SPECIAL EXCEPTIONS (TSP)**

- 1515.1** Any exception from the requirements of this chapter shall be permitted only as a special exception, if approved by the Board of Zoning Adjustment after public hearing, in accordance with § 3104, and subject to the following requirements:
- (a) Tree removal, grading, and topographical change shall be limited to the maximum extent consistent with construction of a building permitted by the standards of this chapter;
  - (b) The applicant shall demonstrate that there are specific physical characteristics of the lot that justify the exception;

- (c) The excepted building and overall site plan of the lot shall be generally consistent with the purposes of the TSP Overlay District and not adversely affect neighboring property; and
- (d) The Board may impose requirements as to design, appearance, tree protection practices during construction, buffering, and other requirements as it deems necessary to achieve the purpose of this chapter, and may vary side and rear yard requirements in order to achieve the purposes of this chapter.

1515.2 Before taking final action on an application, the Board shall submit the application to the following agencies for review and written reports:

- (a) D.C. Office of Planning;
- (b) D.C. Department of Transportation, Tree Management Administration;
- (c) D.C. Department of Parks and Recreation;
- (d) D.C. Department of Consumer and Regulatory Affairs, Soil Erosion and Storm Management Branch; and
- (e) National Park Service, U.S. Department of the Interior.

1515.3 An applicant for a special exception shall submit at least the following materials:

- (a) A site plan for development, including computation and illustration of total lot occupancy and impervious surface ratio, and regulated trees proposed to be removed; and
- (b) A plan and statement indicating how trees to be preserved on the lot will be protected during the construction period, including reference to proposed procedures to guard against long-term damage by such factors as soil compaction.

**SOURCE:** Final Rulemaking published at 39 DCR 1900, 1902 (March 20, 1992); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8456-57 (October 20, 2000).

**1516–1520 [RESERVED]**

**1521 FOGGY BOTTOM OVERLAY DISTRICT (FB)**

1521.1 The Foggy Bottom Historic District is a unique resource to the District of Columbia that must be preserved and enhanced. The historic district was designated and included in the *National Register of Historic Places* in 1986 and 1987, respectively. It is characterized by low scale residential structures forming a cohesive neighborhood of modest dwellings. Given the high density development pressures caused by the proximity of the Central Employment Area, George Washington University, medical clinics, and hotels, strong protection is needed to retain the historic district's low-scale residential character, human scale streetscape, and historic character.

1521.2 The Foggy Bottom (FB) Overlay District has the identical boundaries of the Foggy Bottom Historic District and is applied to the area, the boundaries of which begin at the intersection of K and 25th Streets, N.W., and proceed as follows: east along the center line of K Street, turning south along the eastern edge of Lot 19 in Square 28 to the northern edge of the alley; then eastward and southward along the alley to the northern boundary of Lot 92 in Square 28; then eastward to the center line of 24th Street; then south along the center line of 24th Street to New Hampshire Avenue; then southwest along the center line of New Hampshire to H Street; west along the center line of H Street to 25th Street; north along the center line of 25th Street to the southern edge of Lot 42 in Square 17; then west along the lot line to the alley in Square 17; then through the alley and then north along the western line of Lot 848 (encompassing Lots 812 through 820, 28 through 35, and 834, 848, and 849) in Square 17 to the center line of I Street; then west along the center line of I Street to the center line of 26th Street; then north on 26th Street to the northern edge of Lot 73 in Square 16; then east along the northern edge of Lot 73 to the easternmost corner of Hughes Mews and then south along the eastern edge of Hughes Mews to the northern edge of Lots 883, 858, and 856; then east along the lots to the center line of 25th Street; then north along the center line of 25th Street to the origination point at the center line of K Street. The FB Overlay District includes the following: Square 16, excluding Lots 884, 863, 93, 17, 71, and 2009 through 2161 (The Griffin Condominium Apartment Building); Square 17, excluding Lots 2001 through 2051 (The Plaza Condominium Apartment Building); Square 28, excluding Lots 884 and 168; and Square 29 in its entirety.

1521.3 The purposes of the FB Overlay District is to:

- (a) Require a scale of development consistent with:

- (1) The Comprehensive Plan, which provides that the land use map for the Foggy Bottom Historic District be amended from the present “medium” category to the “moderate” category; and
  - (2) The characteristics of the low scale harmony of rhythmic townhouses of a purely residential neighborhood that formed the basis on which the area was designated a historic district;
- (b) Protect the integrity of the historic district, its small scale, and open spaces; require compatibility of any development with the purposes of the Historic Landmark and Historic District Protection Act of 1978, effective March 3, 1979 (D.C. Law 2-144, as amended; D.C. Official Code §§ 6-1101 to 6-1115 (2001)(formerly codified at D.C. Code §§ 5-1001 to 5-1015 (1994 Repl. & 1999 Supp.))), and preclude demolitions or partial demolitions that would lead to an increase in height and floor area ratio inappropriate to the area;
  - (c) Enhance the residential character of the area by maintaining existing residential uses;
  - (d) Preserve areas planned as open backyards and alleyways that provide the only access to historic alley dwellings, and protect the light, air, and privacy that they provide;
  - (e) Enhance the special human scale streetscape by maintaining the public space in front of the buildings as landscaped green spaces and limiting future curb cuts; and
  - (f) Encourage greater use of public transportation through use of the nearby Foggy Bottom Metrorail Station, so as to protect the narrow residential streets and alleys from the deleterious effects of disruptive excessive traffic.

**SOURCE:** Final Rulemaking published at 39 DCR 2741 (April 17, 1992); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8457-59 (October 20, 2000).

## **1522 GENERAL PROVISIONS (FB)**

- 1522.1 The FB Overlay District is mapped in combination with the underlying R-3 District.

1522.2 Except as specifically provided in § 1522.3 and in other provisions of this chapter, all matter-of-right uses, buildings, and structures permitted in accordance with this chapter and the appropriate regulations of the underlying zone district with which the mapped FB Overlay District is combined shall be permitted in the combined district.

1522.3 Where there is a conflict between this chapter and the underlying zoning, the more restrictive provisions of this title shall govern. Where other chapters provide for additional requirements for planned unit developments, those additional requirements shall continue to apply.

**SOURCE:** Final Rulemaking published at 39 DCR 2741, 2743 (April 17, 1992); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8459 (October 20, 2000).

### **1523 SPECIFIC PROVISIONS (FB)**

1523.1 In the FB Overlay District, buildings constructed on or before April 17, 1992, and existing legitimate uses within the buildings shall be deemed conforming, except that no addition, replacement, or expansion of the building, or change in use (except to a more conforming residential use other than a dormitory) shall be permitted unless in conformance with the requirements of the underlying R-3 District.

1523.2 If any building is destroyed by fire, collapse, explosion, or act of God, it may be reconstructed or restored to its previous condition or to a more conforming residential condition other than a dormitory. Excluded from this provision are uses that are nonconforming prior to April 17, 1992, and operating without a special exception issued by the Board of Zoning Adjustment.

**SOURCE:** Final Rulemaking published at 39 DCR 2741, 2743 (April 17, 1992); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8459 (October 20, 2000).

### **1524 PLANNED UNIT DEVELOPMENT (FB)**

1524.1 In the FB Overlay District, the matter-of-right height and floor area ratio limits shall serve as the maximum permitted height and floor area ratio for planned unit developments.

**SOURCE:** Final Rulemaking published at 39 DCR 2741, 2744 (April 17, 1992); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8459 (October 20, 2000).

**1525-1530 [RESERVED]****1531 NAVAL OBSERVATORY PRECINCT OVERLAY DISTRICT (NO)**

- 1531.1 The Naval Observatory Precinct (NO) Overlay District is established to promote the public health, safety, and general welfare on land adjacent to or in close proximity to the highly sensitive and historically important Naval Observatory, in keeping with the goals and policies of the Federal and District elements of the Comprehensive Plan and the adopted Master Plan for that facility.
- 1531.2 Public land within the NO Overlay District shall be used in a manner consistent with the historic or ceremonial importance and special missions of the Naval Observatory.
- 1531.3 The land use controls embodied in this title for land adjacent to the Naval Observatory reflect the importance of the Naval Observatory to the District of Columbia and the Nation.
- 1531.4 The NO Overlay District is intended to provide additional controls on private land, in order to protect recognized Federal interest concerns. The concerns include the critical scientific mission performed at the Naval Observatory and the security needs of the Vice-President's residence.
- 1531.5 The NO Overlay District shall act to further restrict the development controls permitted in existing districts to reduce or eliminate any possible harm or restrictions on the mission of the Federal establishment within the NO Overlay District.
- 1531.6 The NO Overlay District shall be mapped in combination with any underlying zone district and not instead of the underlying zoning.
- 1531.7 All uses, buildings, and structures permitted in accordance with the appropriate sections of this chapter for the respective districts with which the mapped NO Overlay District is combined shall be permitted in those districts, except as specifically modified by this chapter.
- 1531.8 All restrictions or prohibitions applicable to either of the districts combined pursuant to this chapter shall apply in the NO Overlay District.

**SOURCE:** Final Rulemaking published at 39 DCR 2745 (April 17, 1992); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8460 (October 20, 2000).

**1532 USE REGULATIONS (NO)**

- 1532.1 The uses that are permitted in the underlying zone districts within the NO Overlay District shall be permitted in the same manner in the combined district.

**SOURCE:** Final Rulemaking published at 39 DCR 2745, 2746 (April 17, 1992); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8441-42 (October 20, 2000).

**1533 SPECIAL EXCEPTIONS (NO)**

- 1533.1 In an application for a special exception in the NO Overlay District, the Board of Zoning Adjustment shall consider, in addition to the criteria in § 3104 and in other chapters of this title, whether the proposed development is compatible with the:

- (a) Present and proposed development within and adjacent to the NO Overlay District;
- (b) Goals, objectives, and policies pertaining to Federal facilities, as found in the Comprehensive Plan and the Master Plans for the Federal facilities within the NO Overlay District; and
- (c) Role, mission, and functions of the Federal facilities within the NO Overlay District, and the effect that the proposed development would have on such facilities.

- 1533.2 The Board shall refer the application upon receipt to the D.C. Office of Planning for coordination, review, report, and impact assessment, along with reviews in writing by all relevant District departments and agencies, including the Departments of Transportation and Housing and Community Development, and, if a historic district or historic landmark is involved, the State Historic Preservation Officer.

- 1533.3 The Board shall refer the application upon receipt to the National Capital Planning Commission for review and report.

- 1533.4 The Board may require special treatment and impose reasonable conditions as it deems necessary to mitigate any adverse impact identified in the consideration of the application.

**SOURCE:** Final Rulemaking published at 39 DCR 2745, 2746 (April 17, 1992); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8461 (October 20, 2000).

**1534 HEIGHT, AREA, AND BULK REGULATIONS (NO)**

- 1534.1 The maximum permitted building height in the NO Overlay District shall not exceed forty feet (40 ft.).
- 1534.2 For purposes of this chapter, the height of a building shall be measured as follows:
- (a) The height of a building shall be the vertical distance measured from the level of the curb opposite the middle of the front of the building to the highest point of the roof or parapet; and
  - (b) The curb elevation opposite the middle of the front of the building shall be determined as the average elevation of the lot from its front line to its rear lot line.
- 1534.3 The provisions of chapter 24 of this title shall not operate to permit a planned unit development in the NO Overlay District to exceed either the limits of § 1534.1, or the area, bulk, and yard standards that apply as a matter of right in any underlying district within the NO Overlay District.
- 1534.4 All provisions of § 411 shall also apply to roof structures in the NO Overlay District.

**SOURCE:** Final Rulemaking published at 39 DCR 2745, 2747 (April 17, 1992); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8461-62 (October 20, 2000).

**1535-1540 [RESERVED]****1541 WESLEY HEIGHTS OVERLAY DISTRICT (WH)**

- 1541.1 The Wesley Heights (WH) Overlay District is established to preserve and enhance the low density character of Wesley Heights by regulating construction and alteration of residential and other buildings in the area.
- 1541.2 The WH Overlay District shall apply to the area and properties contained in this subsection:
- (a) The area is generally bounded by a line which begins at the intersection of Nebraska and New Mexico Avenues and runs southeast along the center line of New Mexico Avenue, N.W., to the western boundary of Glover Archbold Park. The line then runs south and west along the west boundary of Glover Archbold Park to a point east of the southernmost point of Lot 33 of Square 1341. The line then runs west across 44th Street to the southwest boundary of



Lot 33. The line then runs in a northerly direction along the rear lot lines of the properties on the west side of 44th Street, to the southern boundary of Lot 15 of Square 1341, inclusive of Lot 33. (For those lots with narrow frontages on the west side of 44th Street, the WH Overlay District boundary line shall cross those narrow lot frontages by connecting the rear lot lines of the adjacent lots across the narrow lot frontage.) The line then runs west along the southern boundary of Lot 15; then runs northwest along the west boundary of Lot 15; then runs in a westerly direction along the right-of-way of the Dexter Court cul-de-sac excluding Lots 19-21, and then runs southwest along the south boundary of Lot 18. The line then runs north along the west boundary of Lot 18 to the southern boundary of Lot 805. The line then runs west along the southern boundaries of Lots 805 and 800; then runs north along the west boundary of Lot 800; then runs west to Foxhall Road along the southern boundary of Lot 804. The line then runs south along the center line of Foxhall Road; then runs west along the northern boundary of Lot 813 of Square 1380; then runs southwest along the rear of Lots 4, 5, and 820 of Square 1380; then runs west to 49th Street along the southern boundaries of Lots 820 to 824, 826, and 6 of Square 1380. The line then runs north along the western boundary of 49th Street right-of-way; continues east along the northern boundary of Cathedral Avenue right-of-way; and turns north along the property line at the rear of the properties on the west side of Foxhall Road (including all of Square 1523 and Lots 28 and 29 of Square 1521). The line then runs east along the northern property line of Lot 28 of Square 1521 to Foxhall Road, then runs north along the west boundary of the Foxhall Road right-of-way to New Mexico Avenue. The line then runs northeast along the center line of New Mexico Avenue to the point of origin at the intersection of New Mexico and Nebraska Avenues, N.W.; and

- (b) The properties that are contained within the boundaries of the WH Overlay District, as set forth in § 1541.2(a), include all of Squares 1338 to 1340, 1380, 1381, 1406, 1408, 1521, 1523, 1524, 1603 to 1612, 1614, 1615, 1619 to 1622, 1625, 1626, 1700, and 1701; and a portion of Squares 1341, 1397, and 1601 (those portions include Lots 11, 12, 15 to 18, 24, 25, 28 to 34, 36, 37, 800, 804, 805, 807, 810, 814, 819, 821, 824, 825, and 868, and a portion of Lots 35, 857, and 869 in Square 1341; Lots 4 to 6, 814 to 816, 818, 820 to 824, and 826 in Square 1397; and Lots 804 and 805 in Square 1601).

1541.3 The purposes of the WH Overlay District are to:

- (a) Preserve in general the current density of neighborhood;
- (b) Allow reasonable opportunities for owners to expand their dwellings; and

- (c) Preserve existing trees, access to air and light, and the harmonious design and attractive appearance of the neighborhood.

**SOURCE:** Final Rulemaking published at 39 DCR 6827 (September 11, 1992); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8462-62 (October 20, 2000).

#### **1542 GENERAL PROVISIONS (WH)**

- 1542.1 The WH Overlay District is an overlay district and shall be mapped in combination with one (1) of two (2) underlying districts (R-1-A and R-1-B) and not instead of the underlying districts.
- 1542.2 All uses, buildings, and structures permitted in accordance with this chapter and the appropriate regulations of the underlying district with which the mapped WH Overlay District is combined, shall be permitted in the combined districts.
- 1542.3 All restrictions and prohibitions provided for by either of the underlying districts combined in accordance with this chapter shall also apply, except as specifically modified by this chapter. Where there is a conflict between this chapter and the underlying zoning, the more restrictive provisions of this title shall govern.

**SOURCE:** Final Rulemaking published at 39 DCR 6827, 6829 (September 11, 1992); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8463 (October 20, 2000).

#### **1543 RESTRICTIONS: MAXIMUM LOT OCCUPANCY, FLOOR AREA RATIO, AND FRONT YARD SETBACK (WH)**

- 1543.1 The restrictions under this section shall apply to both the R-1-A and the R-1-B Districts within the WH Overlay District.
- 1543.2 No structure, including accessory buildings, shall occupy an area in excess of thirty percent (30%) of the lot; except that:
  - (a) Structures on lots of between five thousand square feet and six thousand six hundred and sixty-seven square feet (5,000 ft.<sup>2</sup> and 6,667 ft.<sup>2</sup>) may occupy up to two thousand square feet (2,000 ft.<sup>2</sup>); and
  - (b) Structures on lots of less than five thousand square feet (5,000 ft.<sup>2</sup>) may occupy up to forty percent (40%) of the area of the lot.

1543.3 The gross floor area of all buildings and structures on the lot shall not exceed the sum of two thousand square feet (2,000 ft.<sup>2</sup>) plus forty percent (40%) of the area of the lot; provided, that the following modifications of gross floor area shall apply in the WH Overlay District:

- (a) The first two hundred square feet (200 ft.<sup>2</sup>) of an open porch, or total open porch space if there is more than one open porch, and the first six hundred square feet (600 ft.<sup>2</sup>) of a garage shall not count in gross floor area; and
- (b) Basement or cellar floor area shall count in gross floor area if a finished floor is provided, if the floor to ceiling height is in excess of six feet, six inches (6 ft., 6 in.), and shall count only up to a floor area equal to five (5) times the total fenestration area for the cellar or basement floor.

1543.4 All residential buildings shall have a front yard setback equal to or greater than the average setback of all structures on the same side of the street in the block where the building in question is located. The required setbacks are depicted in the map entitled, "Required Front Yard Setbacks," which is a part of this overlay district and located in the D.C. Office of Zoning and in the Zoning Division of the Department of Consumer and Regulatory Affairs.

**SOURCE:** Final Rulemaking published at 39 DCR 6827, 6829 (September 11, 1992); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8463 (October 20, 2000).

**EDITOR'S NOTE:** The map entitled "Required Front Yard Setbacks," is published at 39 DCR 6827, 6831 (September 11, 1992).

#### **1544-1550 [RESERVED]**

#### **1551 SIXTEENTH STREET HEIGHTS OVERLAY DISTRICT (SSH)**

1551.1 The Sixteenth Street Heights (SSH) Overlay District is established to help accomplish several goals and policies of the Comprehensive Plan, especially those land use objectives relating to housing supply, neighborhood quality and character, and policies relating to human services and private institutions, as applied to the 16th Street Heights neighborhood.

1551.2 The SSH Overlay District encompasses the geographic area in northwest Washington generally bounded by 16th Street and Rock Creek Park on the west, Military Road and Missouri Avenue on the north, and 14th Street on the east, and Colorado Avenue on the southeast. This overlay zone is applied to properties zoned R-1-B in the following squares and portions of squares: 2718, 2719, 2720, 2720W, 2721, 2721W, 2722, 2722W, 2723, 2723W, 2724, 2724W, 2725, 2741, 2742, 2796, and 2799.

- 1551.3 The purposes of the SSH Overlay District are to:
- (a) Promote the conservation, enhancement, and stability of this low-density, single-family neighborhood for housing and neighborhood-related uses;
  - (b) Control the further conversion of residential housing to nonresidential uses in order to maintain the housing supply and minimize the external negative impacts of new nonresidential uses that are permitted in the SSH/R-1-B District in order to preserve neighborhood quality; and
  - (c) Allow the neighborhood to continue to provide a range of health and social service facilities as well as private institutions that provide cultural and religious enrichment and economic vitality, but within the framework of improved public review and control over the external effects of nonresidential uses. The objective is to make more compatible the Comprehensive Plan's goals and policies for maintaining the quality and stability of residential neighborhoods with other policies related to the reasonable provision of human services throughout the District of Columbia.
- 1551.4 The provisions of the SSH Overlay District shall be applied to the 16th Street Heights neighborhood based on the following key findings:
- (a) Over a period of years, approximately one in every ten (10) houses in the neighborhood has been converted to a nonresidential use, a much higher ratio than has been identified for any other R-1-zoned neighborhood in the District of Columbia; the neighborhood accommodates a significant number and range of human service facilities and private institutions to an extent that new and significantly expanded nonresidential use facilities should be governed by improved public review to ameliorate adverse impacts on immediate and nearby neighbors and preserve a predominantly single-family residential character;
  - (b) The neighborhood boundaries are well established and encompass a significant geographic area; and
  - (c) The District of Columbia executive branch and councilmembers have identified the number of nonresidential uses and the conversion of houses to these uses in this neighborhood as a serious planning and enforcement problem for more than ten (10) years, as reflected in the legislative history of adopted provisions in the Comprehensive Plan.

**SOURCE:** Final Rulemaking published at 41 DCR 5045 (July 29, 1994); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8464 (October 20, 2000).

## **1552 GENERAL PROVISIONS (SSH)**

1552.1 The SSH Overlay District is mapped in combination with the underlying R-1 District and not instead of the underlying district.

1552.2 Where there is a conflict between this chapter and the underlying zoning, the more restrictive provision shall govern.

**SOURCE:** Final Rulemaking published at 41 DCR 5045, 5047 (July 29, 1994); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8441-42 (October 20, 2000).

## **1553 MATTER-OF-RIGHT AND SPECIAL EXCEPTION USES (SSH)**

1553.1 An existing nonresidential use with a valid Certificate of Occupancy as of July 29, 1994, shall be considered a conforming use and may expand by up to ten percent (10%) of its gross floor area as a matter of right under the provisions of the R-1-B District; provided, that the following requirements are met:

- (a) No additional land area or subdivision of lots is involved in the expansion; and
- (b) The ten percent (10%) expansion limit shall be a total limit on expansion based on the gross floor area of the building as of July 29, 1994.

1553.2 A proposed new nonresidential use or an expansion of an existing nonresidential use in excess of ten percent (10%) of gross floor area shall be permitted as a special exception, if approved by the Board of Zoning Adjustment after public hearing, in accordance with § 3104 and subject to the following requirements:

- (a) The nonresidential use is capable of being established and operated without adversely affecting the use and enjoyment of neighboring and nearby properties due to traffic, noise, design, or other objectionable conditions; and
- (b) There shall be adequate, appropriately located, and screened off-street parking sufficient to provide for the needs of the maximum number of occupants, employees, congregants, and visitors who can use the facility at one time; provided:
  - (1) The number of parking spaces provided shall be not less than the number required by chapter 21 of this title and shall be located and designed so that they have the least objectionable effects on contiguous or nearby property because of noise, traffic, or other objectionable conditions;

- (2) Parking spaces and driveways providing access to them shall not be located in a required side yard, or on the lot between the principal building and a street right-of-way, nor in public space abutting the lot;
- (3) If five (5) or more open parking spaces are provided, the parking spaces shall be screened from all contiguous residential property by a wood fence or a wall made of brick or stone at least twelve inches (12 in.) thick and forty-two inches (42 in.) high, or by evergreen hedges or evergreen growing trees that are thickly planted and maintained and are at least forty-two inches (42 in.) in height when planted; and
- (4) Any lighting used to illuminate open parking spaces shall be so arranged that all direct rays of lighting are confined to the surface of the paved area devoted to parking; any lighting provided shall be the minimum necessary for reasonable visibility by drivers and for security purposes.

1553.3 Any expansion, renewal of time limits, or other changes to an existing use permitted by special exception in the R-1 District provisions shall continue to be governed by the R-1 provisions rather than those of this overlay district.

SOURCE: Final Rulemaking published at 41 DCR 5045, 5047 (July 29, 1994); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8464-65 (October 20, 2000).

#### **1554-1560 [RESERVED]**

#### **1561 FORT TOTTEN OVERLAY DISTRICT (FT)**

1561.1 The Fort Totten (FT) Overlay District is established to allow existing industrial businesses to remain and expand and to propose land use control policies to further implement the Comprehensive Plan.

1561.2 The FT Overlay District is applied to the area that is immediately north and south of Fort Circle Park (also known as Fort Drive Park), and shall be mapped in combination with the C-3-A, CR, C-M-1, and M Districts.

(a) North of Fort Circle Park:

- (1) The zone district boundaries of the FT/C-3-A Overlay District shall begin at the intersection of First Place and Riggs Road, N.E., and proceed as follows:

West along the center line of Riggs Road to the north/south alley that is immediately west of and parallel to First Place; south along the center line of that alley to Ingraham Street; east along the center line of Ingraham Street to First Place; south along the center line of First Place to the north property line of Parcel 124/141; east along the north property line of Parcel 124/141 and then continue east along the north property line of Parcel 124/140 (also known as Lot 804 in Square 3700); east along an imaginary line that represents the easterly extension of the north property line of Parcel 124/140; continue east along that imaginary line until it intersects a second imaginary line that represents the westerly extension of the property line between Lots 5 and 808 of Square 3767; continue east along the second imaginary line and the property line between Lots 5 and 808 to the alley in Square 3767; north along the center line of that alley to Kennedy Street; west, north, and then east along the perimeter of an existing R-5-A District boundary line that encompasses Parcel 137/78 (also known as Lots 3, 4, and 800 in Square 3766) to South Dakota Avenue; north along the center line of South Dakota Avenue and then northwesterly along the center line of the vehicular ramp (which connects Riggs Road and South Dakota Avenue) to Riggs Road; west along the center line of Riggs Road to the point of origin; and

- (2) The zone district boundaries of the FT/CR Overlay District shall be the boundaries of the existing C-M-1 District that is immediately north of Fort Circle Park and south of the FT/C-3-A Overlay District as described in § 1561.2(a) (1).

(b) South of Fort Circle Park:

- (1) The zone district boundaries of the FT/M Overlay District shall be the identical boundaries of the existing M District that is immediately south of and contiguous to Fort Circle Park; and
- (2) The zone district boundaries of the FT/C-M-1 Overlay District shall be the identical boundaries of the existing C-M-1 District that is immediately south of and contiguous to Fort Circle Park.

1561.3 The purposes of the FT Overlay District are to:

- (a) Encourage a scale of development and a mixture of building and land uses as generally required by the Comprehensive Plan;

- (b) Encourage future residential and commercial development by means of the provisions of the underlying CR and C-3-A Districts while enabling existing industries that provide jobs, tax revenues, and critical support functions for development of the District of Columbia to remain in the District; and
- (c) Protect surrounding residential areas from the adverse impacts of existing industrial support uses by means of the buffering standards provided in this overlay district.

**SOURCE:** Final Rulemaking published at 42 DCR 2585, 2586 (May 26, 1995); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8465-66 (October 20, 2000).

## **1562 GENERAL PROVISIONS (FT)**

- 1562.1 The FT Overlay District is mapped in combination with the underlying C-3-A, CR, C-M-1, or M Districts and not instead of the underlying districts.
- 1562.2 Where there is a conflict between this chapter and the underlying zoning, the more restrictive provisions of this title shall govern.

**SOURCE:** Final Rulemaking published at 42 DCR 2585, 2586 (May 26, 1995); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8466 (October 20, 2000).

## **1563 HEIGHT, BULK, AND USE PROVISIONS (FT)**

- 1563.1 An existing commercial or industrial use in the FT Overlay District with a valid certificate of occupancy as of May 26, 1995 shall be deemed a conforming use.
- 1563.2 An existing business or industrial use as provided in § 1563.1 shall be permitted to expand pursuant to the height, bulk, and other area standards of the underlying zone district.
- 1563.3 A business or industrial use that expands pursuant to § 1563.2 shall comply with the following yard and screening standards:
  - (a) If the lot line of the lot being developed coincides with the lot line of a property in a Residence District, or is separated only by a street or alley from a property in a Residence District, where the property is not owned by a business or industrial user, and the property is not being used for residential purposes, the following standards shall apply:



- (1) A yard of twenty-five feet (25 ft.) shall be provided on the portion of the lot adjacent to the Residence District; provided, that the requirements under paragraphs (a)(1) through (a)(5) of this subsection are met;
  - (2) Where there is a street or an alley between the residential lot and the lot subject to the FT Overlay District, the required yard shall be fifteen feet (15 ft.) measured from the lot line;
  - (3) The yard shall not be used for parking, loading, or accessory uses;
  - (4) The yard shall be landscaped with evergreen trees in a healthy growing condition which shall be a minimum of six feet to eight feet (6 ft. to 8 ft.) in height when planted; and
  - (5) Planting locations and soil preparation techniques shall be shown on a landscape plan submitted with the building permit application to the D.C. Department of Consumer and Regulatory Affairs for review and approval according to standards maintained by the Department's Soil Erosion and Storm Management Branch, which may require replacement of heavy or compacted soils with top soil and drainage mechanisms as necessary; and
- (b) A fence or wall shall be erected as a buffer between the residential lot(s) not owned by a business or industrial user that abut a lot affected by this overlay district; provided, that the fence or wall shall be no less than eight feet (8 ft.) and no more than ten feet (10 ft.) in height, and shall be either a solid, wood, board-on-board fence or a brick or stone wall.
- 1563.4 The maximum height and bulk of a new building for a newly established use in the underlying CR District shall be eighty-feet (80 ft.) in height, inclusive of roof structure, and 5.0 floor area ratio.
- 1563.5 Buildings proposed to have a height in excess of sixty-five feet (65 ft.) shall provide special architectural features, roof parapet detailing, and design consideration of roof top and penthouse structures to ensure that the views and vistas from the historic fortification of Fort Totten are not degraded or obstructed. The D.C. Office of Planning shall review and provide a report with recommendation.

**SOURCE:** Final Rulemaking published at 42 DCR 2585, 2588 (May 26, 1995); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8466-67 (October 20, 2000).

**1564 SPECIAL EXCEPTIONS (FT)**

- 1564.1 The Board of Zoning Adjustment, after public hearing, may waive or vary the requirements of this chapter relating to building setback, landscaping, and fencing, as a special exception in accordance with § 3104; provided, that the proposed variations in standards are generally consistent with the chapter.

SOURCE: Final Rulemaking published at 42 DCR 2585, 2589 (May 26, 1995); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8467 (October 20, 2000).

**1565 CHAIN BRIDGE ROAD/UNIVERSITY TERRACE OVERLAY DISTRICT (CB/UT)**

- 1565.1 The Chain Bridge Road/University Terrace (CB/UT) Overlay District is established to preserve and enhance the park-like setting of the Chain Bridge Road/University Terrace area by regulating alteration or disturbance of terrain, destruction of trees, and ground coverage of permitted buildings and other impervious surfaces, and by providing for widely spaced residences.

- 1565.2 The purposes of the CB/UT Overlay District are to:

- (a) Preserve the natural topography and mature trees to the maximum extent feasible in a residential neighborhood;
- (b) Prevent significant adverse impact on adjacent open space, parkland, stream beds, or other environmentally sensitive natural areas;
- (c) Limit permitted ground coverage of new and expanded buildings and other construction, so as to encourage a general compatibility between the siting of new buildings or construction and the existing neighborhood; and
- (d) Limit the minimum size of lots so as to prevent significant adverse impact on existing infrastructure, especially on traffic and pedestrian safety and to achieve the other purposes listed in this subsection.

- 1565.3 The CB/UT Overlay District applies to the area bounded on the south by MacArthur Boulevard, on the east by Battery Kemble Park/Chain Bridge Road, on the north by Loughboro Road/Nebraska Avenue, and on the west by University Terrace.

1565.4 The properties contained within the boundaries of the CB/UT Overlay District include Lots 826, 829, 839-843, 845-847, 849-851, and 853-857 in Square 1409; Lots 829 and 830 in Square 1410; Lots 803, 806, 807, 829, 830, 832, 840, and 841 in Square 1411; all of Square 1425; Lots 11, 15-18, 20, 22, 831, 835, 851, 855, 859, 861, 863, 864, 898, 899, 902-905, 912, 914, 931, 937, 938, 940, and 948-958 in Square 1426; and all of Square 1427.

1565.5 The CB/UT Overlay District is a residential neighborhood, located at the edge of stream beds and public open spaces, that has steep slopes, substantial stands of mature trees, and undeveloped lots and parcels subject to potential terrain alteration and tree removal.

**SOURCE:** Final Rulemaking published at 46 DCR 6246-47 (July 30, 1999); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8467-68 (October 20, 2000).

## **1566 GENERAL PROVISIONS (CB/UT)**

1566.1 The CB/UT Overlay District is mapped in combination with the underlying Residence District and not instead of the underlying district.

1566.2 Where there is a conflict between the CB/UT Overlay District and the underlying zoning, the more restrictive provisions of this title shall govern.

**SOURCE:** Final Rulemaking published at 46 DCR 6246, 6247-48 (July 30, 1999); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8468 (October 20, 2000).

## **1567 LOT OCCUPANCY AND GROUND COVERAGE RESTRICTIONS (CB/UT)**

1567.1 The principal building and any accessory building on the lot shall not exceed total lot occupancy of thirty percent (30%); provided that on lots of six thousand, four hundred ninety-nine square feet (6,499 ft.<sup>2</sup>) or less, the maximum permitted lot occupancy shall be forty percent (40%); on lots of six thousand, five hundred square feet (6,500 ft.<sup>2</sup>) to eight thousand, nine hundred ninety-nine square feet (8,999 ft.<sup>2</sup>), the maximum permitted lot occupancy shall be thirty-five percent (35%), but not less than two thousand, six hundred square feet (2,600 ft.<sup>2</sup>); and on lots of nine thousand square feet (9,000 ft.<sup>2</sup>) or more, the maximum permitted lot occupancy shall be thirty percent (30%), but not less than three thousand one hundred fifty square feet (3,150 ft.<sup>2</sup>).

1567.2 The maximum impervious surface coverage on a lot shall be fifty percent (50%), provided this subsection shall not:

- (a) Preclude enlargement of a principal building in existence as of July 30, 1999;  
or
- (b) Create nonconformity of a structure as regulated by chapter 20 of this title.

**SOURCE:** Final Rulemaking published at 46 DCR 6246, 6248 (July 30, 1999); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8468-69 (October 20, 2000).

## **1568 LIMITATIONS (CB/UT)**

- 1568.1 Except as provided in § 1568.2, constructing a building, accessory building, or an addition to a building, creating any impervious surface area, subdividing any unimproved lot, or subdividing any improved lot so as to increase the number of principal structures thereupon, shall only be permitted as a matter of right subject to the following tree removal limitations:
- (a) No tree that has a circumference of seventy-five inches (75 in.) or more at a height of four and one-half feet (4½ ft.) above ground may be removed, cut down, or fatally damaged;
  - (b) No more than three (3) trees that have a circumference of more than thirty-eight inches (38 in.) at a height of four and a half feet (4½ ft.) above ground may be removed, cut down, or fatally damaged and none of these may be located within twenty-five feet (25 ft.) of any building restriction line or lot line abutting a public street;
  - (c) The total circumference inches of all trees removed or cut down on a lot may not exceed twenty-five percent (25%) of the total circumference inches of all trees on the lot having a circumference greater than twelve inches (12 in.); provided, that this section does not abrogate the right to remove or cut down up to three (3) trees as provided in paragraph (b) of this subsection; or any tree having a circumference of twelve inches (12 in.) or less at a height of four and one-half feet (4½ ft.) above ground.
- 1568.2 The prohibitions of § 1568.1 do not apply to the removal or cutting down of any dead or unhealthy tree or a tree that creates an unsafe condition. The need for removal of any tree shall be certified by a tree care professional certified by the International Society of Arboriculture.
- 1568.3 A special exception under § 3104 must be obtained for a building permit for a lot on which trees were removed, cut down, or fatally damaged prior to July 30, 1999, if the removal, cutting, or damage:

- (a) Would have been prohibited by § 1568.1; and
- (b) Occurred within seven years of the application date.

1568.4 The minimum lot area for dwellings within the CB/UT Overlay District shall be nine thousand, five hundred square feet (9,500 ft.<sup>2</sup>) for lots subdivided after July 30, 1999.

**SOURCE:** Final Rulemaking published at 46 DCR 6246, 6248-49 (July 30, 1999); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8469-70 (October 20, 2000).

## **1569 SPECIAL EXCEPTIONS (CB/UT)**

1569.1 Any exception from the requirements of this chapter shall be permitted only as a special exception, if approved by the Board of Zoning Adjustment after public hearing, in accordance with the conditions specified in § 3104, and subject to the following requirements:

- (a) Tree removal, grading, and topographical change shall be limited to the maximum extent possible, consistent with construction of a building permitted by the standards of this section;
- (b) The applicant shall demonstrate that there are specific physical characteristics of the lot that justify the exception;
- (c) The excepted building and overall site plan of the lot shall be generally consistent with the purposes of the CB/UT Overlay District and not adversely affect neighboring property; and
- (d) The Board may impose requirements as to design, appearance, tree protection practices during construction, buffering, and other requirements as it deems necessary to achieve the purposes of this section and may vary side and rear yard requirements in order to achieve the purposes of this section.

1569.2 Before taking final action on an application, the Board shall submit the application to the following agencies for review and written reports:

- (a) D.C. Office of Planning;
- (b) D.C. Department of Transportation, Tree Management Administration;
- (c) D.C. Department of Parks and Recreation;

- (d) D.C. Department of Consumer and Regulatory Affairs, Soil Erosion and Storm Management Branch; and
- (e) National Park Service, U.S. Department of the Interior.

1569.3 An applicant for a special exception shall submit at least the following materials:

- (a) A site plan for development, including computation and illustration of total lot occupancy and impervious surface ratio, and regulated trees proposed to be removed; and
- (b) A plan and statement indicating how trees to be preserved on the lot will be protected during the construction period, including reference to proposed procedures to guard against long-term damage by such factors as soil compaction.

**SOURCE:** Final Rulemaking published at 46 DCR 6246, 6249-50 (July 30, 1999); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8470 (October 20, 2000).

## **1570 CAPITOL HILL COMMERCIAL OVERLAY DISTRICT (CHC)**

1570.1 The Capitol Hill Commercial (CHC) Overlay District is established to implement the goals and policies of the Comprehensive Plan, particularly those land use objectives and policies relating to improving the physical condition of Capitol Hill through the provision of functional, efficient, and attractive commercial areas; minimizing conflicts between various land uses; locating more intensive and active land uses in areas of Capitol Hill that can accommodate and support such uses; stabilizing and improving commercial areas in portions of Capitol Hill; ensuring the integrity of the Capitol Hill Historic District; and developing and establishing special land use categories to meet the unique characteristics of the commercial areas of Capitol Hill.

1570.2 The purposes of the CHC Overlay District are to:

- (a) Implement § 1735.1(w) of the Comprehensive Plan, Title 10 DCMR;
- (b) Encourage the adaptive use and reuse of existing buildings, many of which are located in the Capitol Hill Historic District, particularly with respect to the portions of the buildings that exceed the commercial floor area ratio permitted in the underlying zone districts;

- (c) Concentrate nonresidential uses in Commercial Zone Districts in certain areas of Capitol Hill, thereby enhancing and protecting the residential character of the areas surrounding the Commercial Districts and relieving pressure to use properties zoned residential for commercial uses; and
- (d) Provide appropriate incentives for new infill construction that is compatible with the Capitol Hill Historic District and its predominance of low scale row house structures.

1570.3 The CHC Overlay District encompasses the geographic area in southeast and northeast Washington generally identified as follows:

- (a) Massachusetts Avenue, N.E./Stanton Park corridor, between 2<sup>nd</sup> Street and 6<sup>th</sup> Street, N.E.;
- (b) Pennsylvania Avenue, S.E., between 2<sup>nd</sup> Street and 4<sup>th</sup> Street, S.E.;
- (c) Pennsylvania Avenue, S.E., between 6<sup>th</sup> Street and 13<sup>th</sup> Street, S.E.;
- (d) Eighth Street, S.E., between Pennsylvania Avenue, S.E., and the Southeast Expressway; and
- (e) Seventh Street, S.E., between North Carolina Avenue and Pennsylvania Avenue, S.E.

1570.4 The CHC Overlay District shall include all of the following lots or squares zoned C-2-A and CAP/C-2-A:

- (a) Square 755: those lots that abut Massachusetts Avenue, N.E.;
- (b) Square 756: those lots that abut Massachusetts Avenue, N.E., and D Street, N.E.;
- (c) Square 762: those lots that abut Pennsylvania Avenue, S.E.;
- (d) Square 781: those lots that abut Massachusetts Avenue, N.E.;
- (e) Square 782: those lots that abut Massachusetts Avenue, N.E.;
- (f) Square 789: those lots that abut Pennsylvania Avenue, S.E.;
- (g) Square 790: those lots that abut Pennsylvania Avenue, S.E.;

- (h) Square 813: those lots that abut Stanton Park (also known as Stanton Square) and C Street, N.E.;
- (i) Square 814: those lots that abut Stanton Park (also known as Stanton Square) and C Street, N.E.;
- (j) Square 837: those lots that abut Stanton Park (also known as Stanton Square) and C Street, N.E.;
- (k) Square 838: those lots that abut Stanton Park (also known as Stanton Square) and C Street, N.E.;
- (l) Square 873;
- (m) Square 874: those lots that abut Pennsylvania Avenue, S.E.;
- (n) Square 900: those lots that abut 7<sup>th</sup> Street, S.E.;
- (o) Square 902: those lots that abut 8<sup>th</sup> Street, S.E., and D Street, S.E.;
- (p) Square 903: those lots that abut 8<sup>th</sup> Street, S.E.;
- (q) Square 904: those lots that abut 8<sup>th</sup> Street, S.E.;
- (r) Square 925: those lots that abut 8<sup>th</sup> Street, S.E.; D Street, S.E.; and Pennsylvania Avenue, S.E.;
- (s) Square 926: those lots that abut 8<sup>th</sup> Street, S.E.;
- (t) Square 928;
- (u) Square 947;
- (v) Square 948;
- (w) Square 972: those lots that abut Pennsylvania Avenue, S.E.;
- (x) Square 973: those lots that abut E Street, S.E., and Pennsylvania Avenue, S.E.;
- (y) Square 994: those lots that abut Pennsylvania Avenue, S.E.;



(z) Square 1019: those lots that abut Pennsylvania Avenue, S.E., and 12<sup>th</sup> Street, S.E.; and

(aa) Square S1019.

## **1571 GENERAL PROVISIONS (CHC)**

1571.1 The CHC Overlay District is mapped in combination with, and not instead of, the underlying Commercial District and the Capitol Interest (CAP) Overlay District.

1571.2 All buildings and structures permitted under §§ 1572 and 1573 and the pertinent regulations of the underlying Commercial District and the CAP Overlay District shall be permitted in the combined district.

1571.3 Except as provided in §§ 1572.2 and 1572.4, where there is a conflict between §§ 1572 and 1573 and the underlying Commercial District or the CAP Overlay District, the provisions of §§ 1572 and 1573 shall govern.

## **1572 HEIGHT AND FLOOR AREA RATIO RESTRICTIONS (CHC)**

1572.1 Except as provided in § 1572.2, the maximum permitted building height in the CHC Overlay District shall be the height permitted in the underlying Commercial District.

1572.2 If the affected property is located in both the CHC Overlay District and the CAP Overlay District, the maximum permitted building height shall be the height permitted in the CAP Overlay District.

1572.3 Except as provided in § 1572.4, the maximum permitted floor area ratio for a building or structure in the CHC Overlay District shall be 3.0 for all permitted uses.

1572.4 Notwithstanding § 1203.3, the maximum permitted floor area ratio for a building or structure located in both the CHC Overlay District and the CAP Overlay District shall be 2.5 for all permitted uses.

## **1573 PLANNED UNIT DEVELOPMENT STANDARDS (CHC)**

1573.1 In the CHC Overlay District, the development standards in §§ 1572.3 through 1572.4 shall serve as the maximum permitted floor area ratio for a planned unit development.

**SOURCE:** Final Rulemaking published at 49 DCR 9064, 9070-73 (October 4, 2002); as corrected by Final Rulemaking published at 49 DCR 10594, 10600-10603 (November 22, 2002).

**1599      DEFINITIONS**

1599.1      When used in this chapter, the following term has the meaning ascribed:

1599.2      **Nonresidential use** - a permitted use in the R-1 District other than a one-family dwelling.

**SOURCE:** Final Rulemaking published at 41 DCR 5045, 5048 (July 29, 1994).